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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,250	09/15/2005	Udo Gortz	915-006.062	2965

4955 7590 04/12/2007
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EXAMINER

NGUYEN, DAVID Q

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/517,250

Applicant(s)

GORTZ ET AL.

Examiner

David Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/07/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 27-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are drawn to a computer program per se. A computer program per se is abstract instructions. Therefore, a computer program is not a physical thing (product) nor a process as they are not "acts" being performed. As such, these claims are not directed to one of the statutory categories of invention (See MPEP 2106.01), but are directed to nonstatutory functional descriptive material.

It is noted that computer programs embodied on a computer readable medium or other structure, which would permit the functionality of the program to be realized, would be directed to a product and be within a statutory category of invention, so long as the computer readable medium is not disclosed as non-statutory subject matter per se (signals or carrier waves).

Claim Objections

2. Claims 10 and 17 are objected to because of the following informalities: "a processor" should be changed to --said processor--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7,9-12,17-22 and 24-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Valentine (US 2004/0208297 A1).

Regarding claim 1, Valentine discloses a mobile electronic device, comprising a storage to store digital content (see par. 0043, recording a voice message or text message) and processor being configured to edit and change said stored digital content (see par. 0011, "Hi Johnny, Fred here, I can't take your call right now but I do want to catch up with you, so please leave me a message after the tone" or the caller may hear "Hi Johnny, Fred here, I can't take your call right now but I do want to catch up with you, so please press 1 and you will go to my pager service and they will page me, or leave a message after the tone"), characterized by a component to obtain data provided from a sensor (see par. 0013, sensing time, day or weekend to play different greeting message) wherein said processor is configured to generate and/or process said digital content according to said obtained sensor data (see par. 0013, sensing time, day or weekend to play different greeting message).

Regarding claim 19, Valentine discloses a method, comprising obtaining data from a sensor (see par. 0013, sensing time, day or weekend to play different greeting message), and generating/processing digital content stored on a mobile electronic device in accordance with

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said data obtained from said sensor (see par. 0013, sensing time, day or weekend to play different greeting message).

Regarding claim 27, Valentine discloses a software tool comprising program code means for carrying out the steps of claim 19 when said program is run on a computer device or a mobile electronic device (see explanation in claim 19).

Regarding claim 28, Valentine discloses a computer program comprising program code means for carrying out the method of claim 19 when said program is run on a mobile computer or network device (see explanation in claim 19).

Regarding claim 29, Valentine discloses a computer program product comprising program code means stored on a computer readable medium for carrying out the method of claim 19 when said program is run on a network device or a mobile computer device (see explanation in claim 19).

Regarding claim 2, Valentine also discloses the mobile electronic device comprising a communication device (see par. 0010).

Regarding claims 3 and 21, Valentine also discloses the mobile electronic device characterized by a mailbox, wherein said digital content to be edited comprises an announcement message contained in said mailbox (see pars. 0011-0013).

Regarding claim 4, Valentine also discloses wherein said processor is configured to generate and/or process a basic announcement of said mailbox automatically according to said obtained sensor data (see pars. 0011-0013).

Regarding claim 5, Valentine also discloses the mobile electronic device comprising further comprising a text to speech transducer, to read out said announcement stored as a text data file (see pars. 0013 and 0043).

Regarding claim 6, Valentine also discloses wherein said communication device is a mobile telephone (see par. 0010).

Regarding claim 7, Valentine also discloses wherein said stored digital content comprises digital audio data (see par. 0043).

Regarding claim 9, Valentine also discloses said stored digital content comprises digital text data (see par. 0043).

Regarding claim 10 Valentine also discloses a processor configured to evaluate said obtained sensor data (see par. 0010).

Regarding claim 11, Valentine also discloses wherein said component to obtain sensor data comprises a receiver (see par. 0009-0010).

Regarding claim 12, Valentine also discloses wherein said component to obtain sensor data comprises at least one sensor built-in in said mobile electronic device (see par. 0011).

Regarding claim 17, Valentine also discloses a processor being configured to change device settings according to said obtained sensor data (see pars. 0011-0013).

Regarding claim 18, Valentine also discloses a user interface, for providing a user interface for manually overriding said generating/processing (see fig. 5 and par. 0015 and 0053).

Regarding claim 20, Valentine also discloses receiving a communication request (see par. 0011).

Regarding claim 22, Valentine also discloses evaluating said data obtained from said sensor, and wherein said generating/processing of said digital content is done in accordance with a result of said evaluation operation (see par. 0010).

Regarding claim 24, Valentine also discloses transmitting of said changed digital content (see par. 0027).

Regarding claim 25, Valentine also discloses changing of device settings in accordance with said sensor data (see par. 0013-0015).

Regarding claim 26, Valentine also discloses manually editing said digital content by user input (see pars. 0024 and 0049).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Umeda et al. (US 2002/0150228 A1).

Regarding claim 8, Valentine does not disclose wherein said stored digital content comprises digital picture/video data. However, Umeda et al disclose a stored digital content comprises digital picture/video data (see pars. 0006-0010 and 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the

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above teaching of Umeda to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

Regarding claim 14, Valentine does not disclose wherein said sensor is a position sensor. However, Umeda et al disclose wherein said sensor is a position sensor (see par. 0084).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Umeda to the mobile station of Valentine in order to forward the call to another phone number where the intended call recipient is presently located.

Regarding claim 23, Valentine does not disclose receiving sensor data from an external sensor. However, Umeda et al disclose receiving sensor data from an external sensor (see pars. 0006-0010 and 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Umeda to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Yoshimoto et al. (JP407154856A).

Regarding claim 13, Valentine does not disclose wherein said sensor is an acceleration sensor. However, Yoshimoto et al disclose a mobile electronic device comprises an acceleration sensor (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Yoshimototo the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality

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6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Rhoads et al. (US 2005/0213790 A1).

Regarding claim 15, Valentine does not disclose wherein said sensor is an optical sensor. However, Rhoads discloses a mobile phone comprising an optical sensor (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Rhoads et al. to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Eckel et al. (2005/0272447).

Regarding claim 16, Valentine does not disclose wherein said sensor senses atmospheric conditions. However, Eckel discloses a mobile electronic device comprises a sensor senses atmospheric conditions (see par. 0010). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Eckel et al. to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844.

The examiner can normally be reached on 8:30AM-5:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Q Nguyen
Examiner
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